
TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

LSA Document #11-315

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING SOURCE SPECIFIC OPERATING AGREEMENTS PROGRAM**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 2](#) concerning source specific operating agreements (SSOAs). IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: [326 IAC 2](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**Basic Purpose and Background**

On March 10, 1994, the Indiana Air Pollution Control Board (APCB) adopted rules (17 IR 2248, July 1, 1994) to implement the Part 70 (Title V) air operating permit program. This permitting program, which all states were required to adopt pursuant to Title V of the 1990 Clean Air Act Amendments, requires comprehensive operating permits be issued to all major sources of air emissions. Because potential to emit (PTE) is used to determine Title V applicability, the program as developed by the United States Environmental Protection Agency (U.S. EPA), required many types of small facilities that had not traditionally been subject to air permitting requirements to obtain an operating permit. In many cases these sources had not been subject to state or federal air pollution control requirements and did not have air pollution control equipment. However, when their PTE was calculated these sources exceeded permitting thresholds.

On March 10, 1994, the APCB also adopted rules (17 IR 2248, July 1, 1994) establishing mechanisms for sources of air pollution to limit their PTE in a permit and eliminate the need for a Title V permit. These provisions are contained in [326 IAC 2-8](#), Federally Enforceable State Operating Permit Program (FESOP), and [326 IAC 2-9](#), Source Specific Operating Agreements (SSOA). SSOAs provide a mechanism for certain categories of sources with minimal environmental impact to obtain an enforceable operating agreement rather than a Title V permit or FESOP.

The SSOA program requires sources to comply with preestablished requirements that limit the source's PTE. These limits may be either physical, such as requiring sources to use air pollution control equipment, or operational, such as restrictions on the type or amount of material that may be processed at the source. A source may operate under multiple SSOAs, as long as the limited PTE for any regulated air pollutant does not exceed major source levels under [326 IAC 2-2](#) (Prevention of Significant Deterioration (PSD) Requirements), [326 IAC 2-3](#) (Emission Offset), and [326 IAC 2-7](#) (Part 70 Permit Program).

SSOAs are currently available for the following operations: surface coating or graphic arts ([326 IAC 2-9-2.5](#) and [326 IAC 2-9-3](#)); woodworking ([326 IAC 2-9-4](#)); abrasive cleaning ([326 IAC 2-9-5](#)); grain elevators ([326 IAC 2-9-6](#)); sand and gravel plants ([326 IAC 2-9-7](#)); crushed stone processing plants ([326 IAC 2-9-8](#)); ready-mix concrete batch plants ([326 IAC 2-9-9](#)); coal mines and coal preparation plants ([326 IAC 2-9-10](#)); automobile refinishing ([326 IAC 2-9-11](#)); degreasing ([326 IAC 2-9-12](#)); external combustion sources ([326 IAC 2-9-13](#)); and internal combustion sources ([326 IAC 2-9-14](#)).

In this rulemaking, the department is conducting a comprehensive review of the SSOA program at [326 IAC 2-9](#) and considering amendments to update emission factors and limitations, amend or add record keeping and reporting requirements, add source categories and new SSOA options, and clarify existing rule language. The amendments to the SSOA program rules will correct deficiencies noted by U.S. EPA concerning compliance demonstrations, record keeping and reporting requirements, and outdated emission factors, in order to have the SSOA program at [326 IAC 2-9](#) approved into the state implementation plan (SIP). IDEM is seeking comments on proposed changes to the air permitting SSOA program at [326 IAC 2-9](#) and any other rules in Title 326 that may be affected by this proposed rulemaking. This rulemaking may potentially affect sources currently operating with a SSOA and new sources applying for a SSOA under [326 IAC 2-9](#). IDEM is also requesting comments on the potential fiscal impact that this proposed rulemaking may have on sources currently operating with a SSOA. Upon completion, the department plans to submit this rule to U.S. EPA for approval into the SIP.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Amend [326 IAC 2-9](#) to include record keeping and reporting requirements, update emission factors, add source categories and new SSOA options, and complete general clarification and cleanup of rule language.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Amend rules in Title 326 related to the SSOA air permitting program to clarify and update existing rule language.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 3. No rulemaking.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

40 CFR 70 (State Operating Permit Program) provides the minimum elements required by the Clean Air Act for state operating permit programs and the corresponding standards and procedures by which the U.S. EPA Administrator will approve, oversee, and withdraw approval of state operating permit programs. This rulemaking will address U.S. EPA approvability concerns with Indiana's SSOA rules, which will allow smaller sources in Indiana to operate under the SSOA provisions instead of the more costly and administratively burdensome Title V operating permit.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. This alternative may have a fiscal impact on sources that currently are operating with a SSOA under [326 IAC 2-9](#). Sources may have increased administrative costs resulting from new record keeping and reporting requirements. Additionally, if the department updates emission factors for the SSOA provisions in [326 IAC 2-9](#), some sources currently operating with a SSOA may be required to obtain an operating permit under one of the department's other permitting programs such as a FESOP or Title V. If a source is required to obtain an operating permit under another permitting program, they will incur the costs necessary to obtain that permit. IDEM is requesting comments on the potential fiscal impact that this proposed rulemaking may have on sources currently operating with a SSOA.

Potential Fiscal Impact of Alternative 2. The department anticipates minimal fiscal impact for this alternative. Rule amendments will likely remove obsolete rule language or clarify existing rule language relating to the department's SSOA provisions in Title 326.

Potential Fiscal Impact of Alternative 3. No fiscal impact.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

<http://www.in.gov/idem/4108.htm>

For purposes of [IC 4-22-2-28.1](#), the Small Business Regulatory Coordinator for this rule is:

Alison Beumer
IDEM Compliance and Technical Assistance Program - OPPTA
MC 60-04 IGCS W041
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Ryan Asberry
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 232-8962
smallbizombudsman@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter

regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn

IDEM Small Business Assistance Program Ombudsman

MC 50-01 IGCN 1307

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 234-3386

bbaughn@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Amy Smith, Rule and State Implementation Plan Development Section, Office of Air Quality at (317) 233-8628 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#11-315 (APCB) SSOA Amendments

Amy Smith Mail Code 61-50

Rule and State Implementation Plan Development Section

Office of Air Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-5967, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rule and State Implementation Plan Development Section at (317) 234-6530.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by July 1, 2011.

Additional information regarding this action may be obtained from Amy Smith, Rule and State Implementation Plan Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Scott Deloney, Chief
Air Programs Branch
Office of Air Quality

Posted: 06/01/2011 by Legislative Services Agency

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